

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF OAK HILL WATER)	
ASSOCIATION, INC., FOR A RATE)	CASE NO.
ADJUSTMENT PURSUANT TO THE PURCHASED)		90-280
WATER ADJUSTMENT CLAUSE)	

O R D E R

On November 13, 1990, Oak Hill Water Association ("Oak Hill") filed a motion with the Commission pursuant to KRS 278.400, requesting a rehearing with respect to the matters determined in the Commission's Order of October 22, 1990. That Order was issued in response to the revised tariff filed by Oak Hill on September 21, 1990 for the purpose of adjusting its rates pursuant to the purchased water adjustment procedure. The purchased water adjustment procedure, codified at KRS 278.012¹ and 807 KAR 5:068, permits a water association to increase its rates without prior approval of the Commission when a wholesale supplier increases the association's rates. However, the statute requires a water

¹ KRS 278.012 provides in pertinent part:

(2) When a wholesale supplier selling water to a water association increases its rates, the water association shall have the authority to increase its rates commensurate with the wholesale supplier without prior approval by the commission. Within twenty (20) days after any such increase in rates, the association shall file its revised tariffs with the commission. . . The commission shall approve the filing or establish revised rates by order no later than thirty (30) days after the above documents are filed with it. . . .

association to file its revised tariff with the Commission within 20 days after it increases its rates.

In its application, Oak Hill proposed to increase its rates to its customers effective July 3, 1990. However, the time period between Oak Hill's filing date of September 21, 1990 and its proposed effective date exceeded the 20-day period specified by KRS 278.012. Consequently, in its Order of October 22, 1990, the Commission approved Oak Hill's increased rates, but only for services rendered on and after September 2, 1990, finding that the statute authorizes the charging of adjusted rates for a maximum of 20 days prior to applying for Commission approval. The Commission further ordered Oak Hill to refund to its customers any revenue collected as a result of the increased rates for services rendered prior to September 2, 1990 and to file proof of said refunds with the Commission.

In its motion for rehearing and memorandum in support thereof, Oak Hill requests the Commission to reconsider its Order and to grant Oak Hill approval to charge the adjusted rate effective July 1, 1990, which is the date its wholesale supplier, the city of Somerset ("Somerset"),² increased its rate to Oak Hill. According to Oak Hill, Somerset substantially increased the rate charged to Oak Hill effective July 1, 1990, but did not notify Oak Hill until September 20, 1990 of the increase. It is

² The city of Somerset is a municipally owned utility and hence not subject to the jurisdiction of the Commission pursuant to KRS 278.010(3).

Oak Hill's position that, inasmuch as it filed its purchased water adjustment and revised tariff with the Commission within 20 days of receiving official notice of Somerset's rate increase, it complied with the provisions of KRS 278.012. Oak Hill believes it should not be penalized by not being allowed to charge its increased rates effective July 1, 1990, since it acted promptly in applying for the purchased water adjustment as soon as it received official notice of its supplier's increase.

Although the Commission understands the potential financial impact which its Order of October 22, 1990 may have on Oak Hill, the language of KRS 278.012 is unequivocal and does not permit an interpretation inconsistent with its plain meaning. A water association which, without prior Commission approval, adjusts its rates commensurate with an increase in its supplier's rates, must file for Commission approval within 20 days after the increase to its customers is effective. In permitting a water association to increase its rates without prior Commission approval, the legislature clearly intended to provide an expedited mechanism whereby these non-profit utilities could recover additional costs incurred as a result of an increase in their supplier's rates without the revenue loss caused by regulatory lag inherent in standard rate cases. It is equally clear, however, that by requiring water associations to file with the Commission within 20 days of the date they increase customer rates, the legislature authorized the charging of the adjusted rates for a maximum of 20 days prior to applying for Commission approval. If the adjusted rates are charged longer than 20 days, they are unauthorized and

any revenue resulting from the increase beyond the 20 days should be refunded.

The Commission finds it puzzling that Oak Hill received notice of Somerset's increase such a long time after it was effective, and recommends that Oak Hill investigate any right to timely notice which Somerset may owe to it, either contractually or by ordinance. In addition, although Oak Hill is precluded from passing through its supplier's increase through the purchased water adjustment procedure of KRS 278.012, the Commission notes that it is not precluded from applying to the Commission for any relief to which it may be entitled in a regular rate proceeding.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that, for the reasons stated herein, Oak Hill's motion for rehearing should be denied.

IT IS THEREFORE ORDERED that:

1. Oak Hill's application for a rehearing be and it hereby is denied.
2. Oak Hill's request that the purchased water adjustment approved in the Commission's October 22, 1990 Order be effective July 1, 1990 be and it hereby is denied.
3. The Commission's Order of October 22, 1990 is hereby affirmed in its entirety.
4. Within 30 days of the date of this Order, Oak Hill shall refund to its customers any revenue which has been collected as a result of the increased rates for services rendered prior to September 2, 1990. Within 10 days thereafter, Oak Hill shall file

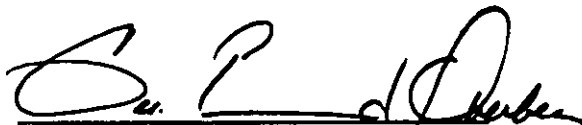
a statement showing the dates of refunds, the amounts of refunds, and the customers to whom refunds were made. If the increased rates were not charged prior to September 2, 1990, Oak Hill shall file a statement with the Commission asserting that fact.

5. Within 30 days of the date of this Order, Oak Hill shall file a revised tariff, signed by the appropriate utility officer, setting out the rates approved herein and the correct effective date.

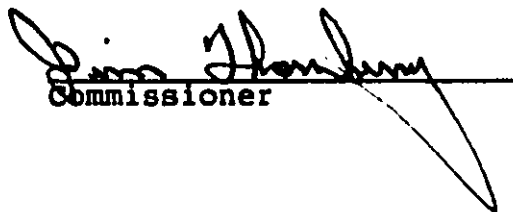
6. Within 20 days of the date of this Order, Oak Hill shall file a copy of the notice to its customers and verification that such notice has been given.

Done at Frankfort, Kentucky, this 3rd day of December, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director